

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 3, 1997

**IN RE: UNIVERSAL SERVICE
GENERIC CONTESTED CASE**

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DOCKET NO. 97-00888

**ORDER ESTABLISHING PROCEDURES FOR DESIGNATION OF ELIGIBLE
TELECOMMUNICATIONS CARRIERS PURSUANT TO SECTION 214(e)(2), OF
THE TELECOMMUNICATIONS ACT OF 1996 AND FCC ORDER 97-157**

This matter came before the Tennessee Regulatory Authority (the Authority) upon its own motion at a regularly scheduled conference held on October 21, 1997, pursuant to 47 U.S.C. § 214(e)(2), of the *Telecommunications Act of 1996* and *Federal Communications Commission (FCC) Order 97-157*. The purpose of this Order is to designate the procedure by which common carriers may be certified as eligible telecommunications carriers.

I. Background for the Order

In February 1996, the United States Congress passed the *Telecommunications Act of 1996* ("Telco Act"). The *Telco Act* was enacted to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers. The *Telco Act* provided for preservation of Universal Service under § 254. Such preservation of Universal Service provides a funding mechanism to ensure access to telecommunications services for low-income, rural, insular and high cost areas at a cost comparable to those in urban areas for similar services. The responsibility for implementing the *Telco Act* was delegated to the FCC, and on May 8, 1997, the FCC issued its *Report and Order, FCC Order No. 97-157 (Docket Number 96-45)*. The *Telco Act* provides in *Section 214(e)(1)* that eligible telecommunications carriers

("ETCs") will be qualified to receive Federal Universal Service support under *Section 254(c)* of the *Telco Act* if, throughout their designated service area, they offer services that are supported by Federal Universal Service support mechanisms under that Section. To receive support the carrier must use either its own facilities or a combination of its own facilities and the resale of another carrier's services (including the services offered by another eligible telecommunications carrier). The carrier seeking to receive Universal Service support must also advertise the availability of the services they provide and the charges for these services. The advertisement must be made through a media of general distribution.

II. Discussion

In the *Telco Act*, Congress directed the FCC and the State Commissions to take steps necessary to establish support mechanisms to ensure the delivery of affordable telecommunications service to all Americans, including low-income consumers, eligible schools and libraries, and rural healthcare providers. The FCC Order provides in *Section 54.210(b)* that a State Commission shall, upon its own motion, or upon request, designate a common carrier that meets the requirements as an eligible telecommunications carrier for a service area designated by the State Commission. The Order further states that, "Upon request and consistent with the public interest, convenience and necessity, the State Commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State Commission, so long as each additional requesting carrier meets the requirements of *Section 214(e)(1)*."^{*} Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State Commission shall find that the designation is in the public interest.

^{*} 47 C.F.R. § 214(e)(2).

At § 54.101 subparagraphs (a) and (b), the FCC indicates that certain services and functions are designated for Federal Universal Service Support. These services and functions include: voice grade access to the public switched network, local usage, dual-tone multi-frequency signaling (or its functional equivalent), single-party service (or its functional equivalent), access to emergency services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation for qualifying low-income consumers. This FCC Rule section that defines and limits supported services for rural, insular, and high cost areas is attached to this Order as Exhibit 1. To receive Universal Service support an eligible carrier must offer each of these services to their customers.

In order for common carriers in the State of Tennessee to be certified by December 31, 1997, and provide the information which the FCC requires, the Authority will require any common carrier seeking certification as an Eligible Telecommunications Carrier (ETC) to file a sworn and notarized Request for Designation in this docket. This Request for Designation must indicate that the carrier will provide the services and functions required by the FCC for purposes of Federal Universal Support and defined in Exhibit 1. Additionally, the Request for Designation will state compliance with the requirements set forth in 47 CFR § 54.201 through 54.207, Exhibit 2, of this Order. This Request for Designation must be signed by a senior official of the carrier. The Request for Designation must be filed with the Executive Secretary of the Authority not later than close of business, 4:30 P.M., Central Standard Time, November 25, 1997.

III. Carriers Eligible for Universal Service Support

The Rules promulgated by the FCC for implementing the eligibility process for potential recipients of Universal Service support are found at 47 CFR § 54.201 through 54.207. These Rules are attached as Exhibit 2 to this Order.

IV. Petitions for Additional Time to Complete Network Upgrades.

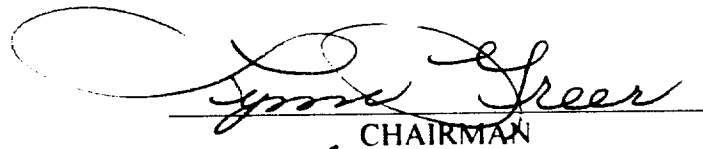
In addition to the procedures for certifying potential recipients of Universal Service support as eligible telecommunications carriers, the FCC has made provisions for a telecommunications carrier that would be eligible to receive Universal Service support under 47 CFR § 54.201 to receive additional time to upgrade its network systems by petitioning the Authority for additional time. The FCC Rules state at § 54.101(9)(c):

Additional Time to Complete Network Upgrades. A State Commission may grant the petition of a telecommunications carrier that is otherwise eligible to receive Universal Service support under § 54.201 of this part requesting additional time to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation. If such petition is granted, the otherwise eligible telecommunications carrier will be permitted to receive Universal Service support for the duration of the period designated by the State Commission. State Commissions should grant such a request only upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing single-party service, access to enhanced 911 service, or toll limitation. The period should extend only as long as the relevant State Commission finds that exceptional circumstances exist and should not extend beyond the time that the State Commission deems necessary for that eligible telecommunications carrier to complete network upgrades. An otherwise eligible telecommunications carrier that is incapable of offering one or more of these three specific Universal Services must demonstrate to the State Commission that exceptional circumstances exist with respect to each service for which the carrier desires a grant of additional time to complete network upgrades.

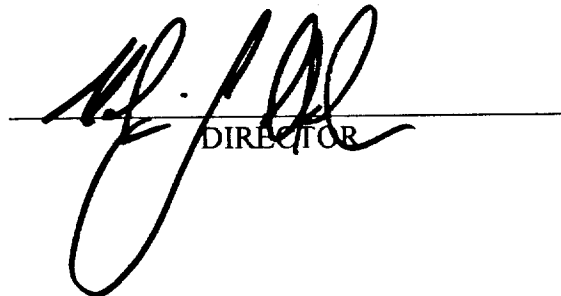
IT IS THEREFORE ORDERED THAT:

1. Common carriers seeking certification as Eligible Telecommunications Carriers (ETC) must file a sworn and notarized Request for Designation in this docket. This Request for Designation must indicate:
 - a) that the carrier will provide the services and functions required by the FCC for purposes of Federal Universal Support as defined in Exhibit 1 of this Order;
 - b) that the carrier will provide the services over its own facilities or a combination of its own facilities and the resale of another carrier's services;
 - c) that the carrier will advertise the availability of the services they provide and the charges for those services; and

- d) the service area for which the carrier is requesting ETC status.
2. This Request for Designation must be signed by a senior official of the carrier.
 3. Should an otherwise eligible carrier determine that they are unable to supply one or more of the specific Universal Services stated in FCC Rule § 54.101(9)(c) restated in Section IV of this Order, the Request for Designation filed with the Executive Secretary of the Authority not later than November 25, 1997, should state the circumstances under which the additional time is needed, what service under the Rule is affected and the estimated time required to complete the required system upgrades.
 4. The Request for Designation must be filed with the Executive Secretary of the Authority, not later than close of business, 4:30 P.M., Central Standard Time, November 25, 1997.
 5. Any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.
 6. Any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.


CHAIRMAN


DIRECTOR


DIRECTOR

ATTEST:


EXECUTIVE SECRETARY

Exhibit 1

47 CFR § 54.101

§ 54.101 Supported services for rural, insular and high cost areas.

(a) Services Designated for Support. The following services or functionalities shall be supported by Federal Universal Service support mechanisms:

(1) *Voice grade access to the public switched network.* "Voice grade access" is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For purposes of this Part, voice grade access shall occur within the frequency range of between approximately 500 Hertz and 4,000 Hertz, for a bandwidth of approximately 3,500 Hertz;

(2) *Local usage.* "Local usage" means an amount of minutes of use of exchange service prescribed by the Commission, provided free of charge to end users;

(3) *Dual tone multi-frequency signaling or its functional equivalent.* "Dual tone multi-frequency" (DTMF) is a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time;

(4) *Single-party service or its functional equivalent.* "Single-party service" is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;

(5) *Access to emergency' services.* "Access to emergency services" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code "911," to call emergency services through a Public Service Access Point (PSAP) operated by the local government. "Enhanced 911" is defined as 911 service that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected, and automatic location information (ALT), which permits emergency service providers to identify the geographic location of the calling party.

"Access to emergency services" includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems;

(6) *Access to operator services.* "Access to operator services" is defined as access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call;

(7) *Access to interexchange service.* "Access to interexchange service" is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;

(8) *Access to directory assistance.* "Access to directory assistance" is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and

(9) *Toll limitation for qualifying low-income consumers.* Toll limitation for qualifying low-income consumers is described in Subpart B.

(10) *Requirement to Offer all Designated Services.* An eligible telecommunications carrier must offer each of the services set forth in paragraph (a) of this section in order to receive Federal Universal Service support.

Exhibit 2

47 CFR § 54.201 through 54.207

§ 54.201 Designation of eligible telecommunications carriers, generally.

(a) Carriers eligible to receive support.

(1) Beginning January 1, 1998, only eligible telecommunications carriers designated under paragraphs (a) through (d) of this section shall receive universal service support distributed pursuant to Part 36 and Part 69 of this chapter, and subparts D and E of this part

(2) Only eligible telecommunications carriers designated under paragraphs (b) through (d) of this section shall receive universal service support distributed pursuant to subpart G of this part. This subparagraph does not apply to support distributed pursuant to § 54.621(a) of subpart G.

(3) This paragraph does not apply to support distributed pursuant subpart F of this part.

(a) Not currently available.

(b) A state commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (d) of this section as an eligible telecommunications carrier for a service area designated by the state commission.

(c) Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

(d) A common carrier designated as an eligible telecommunications carrier under this section shall be eligible to receive universal service support in accordance with *Section 254* of the *Act* and shall. throughout the service area for which the designation is received:

(1) offer the services that are supported by federal universal service support mechanisms under subpart B of this part and section 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(2) advertise the availability of such services and the charges therefore using media of general distribution.

(e) For the purposes of this section, the term "facilities" means any physical components of the telecommunications network that are used in the transmission or routing of the services that are designated for support pursuant to subpart B of this part.

(f) For the purposes of this section, the term "own facilities" includes, but is not limited to, facilities obtained as unbundled network elements pursuant to Part 51 of this title, provided that such facilities meet the definition of the term "facilities" under this subpart.

(g) A state commission shall not require a common carrier, in order to satisfy the requirements of paragraph (d)(1) of this section, to use facilities that are located within the relevant service area as long as the carrier uses facilities to provide the services designated for support pursuant to subpart B of this part within the service area.

(h) A state commission shall designate a common carrier that meets the requirements of this section as an eligible telecommunications carrier irrespective of the technology used by such carrier.

(i) A state commission shall not designate as an eligible telecommunications carrier a telecommunications carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carriers services.

§ 54.203 Designation of eligible telecommunications carriers for unserved areas.

(a) If no common carrier will provide the services that are supported by federal universal service support mechanisms under section 254(c) of the Act to an unserved community or any portion thereof that requests such service, the Commission, with respect to interstate services or a state commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof.

(b) Any carrier or carriers ordered to provide such service under this section shall meet the requirements of § 54.201 and shall be designated as an eligible telecommunications carrier for that community or portion thereof.

§ 54.205 Relinquishment of universal service.

(a) A state commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the state commission of such relinquishment.

(b) Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier the state commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The state commission shall establish a time, not to exceed one year after the state commission approves such relinquishment under this section within which such purchase or construction shall be completed.

§ 54.207 Service areas.

(a) The term "service area" means a geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms. A service area defines the overall area for which the carrier shall receive support from federal universal service support mechanisms.